



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

RB:MMS
F.#2010R01923

271 Cadman Plaza East
Brooklyn, New York 11201

August 9, 2012

BY ECF

The Honorable John Gleeson
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. German Goldberg
Criminal Docket No. 10-892 (JG)

Dear Judge Gleeson:

The government respectfully submits this letter, pursuant to Section 5K1.1 of the United States Sentencing Guidelines (the "Guidelines") to apprise the Court of the substantial assistance provided by the defendant German Goldberg and allow the Court, in its discretion, to impose a sentence below the applicable advisory Guidelines range. As set forth more fully below, Goldberg's cooperation contributed to the successful prosecution of Robert Tolento and Anthony Ciliento. Goldberg is scheduled to be sentenced by the Court on August 10, 2012.

I. Background

Beginning in September 2007, when he was just 20 years old, Goldberg began working for a cocaine distribution operation ("Cocaine Delivery Service" or "Service") which arranged for the near-daily delivery of cocaine to customers who resided in southwestern Brooklyn. Presentence Investigative Report ("PSR") ¶¶ 3, 6. The leader of that organization was Robert Tolento. Anthony Ciliento, Tolento's close friend, also worked for the organization. Goldberg began working for the Service after Tolento broke his friend Ahmed's arm with a bat. PSR ¶ 4. Ahmed was one of Tolento's "runners" and asked Goldberg to cover his shift so that he could go to the hospital. Goldberg thereafter

began working for the Cocaine Delivery Service on a regular basis.

Goldberg's involvement in the Service consisted primarily of answering the Service's telephone to intake and process customer requests for cocaine; "bagging" cocaine, or separating bulk amounts of cocaine into distribution quantity baggies; allowing his apartment to be used to store cocaine; and delivering cocaine to customers. PSR ¶ 9. In addition, on multiple occasions, Goldberg also met with the Service's cocaine suppliers. Addendum to PSR ¶ 9.

Goldberg was arrested twice during the time that he worked for the Cocaine Delivery Service. PSR ¶¶ 22, 25. In November 2007, the New York City Police Department (the "NYPD") arrested Goldberg after he was observed to be in possession of an unspecified amount of cocaine. PSR ¶ 23. An additional 43 ziplock bags of cocaine were recovered from the vehicle he was in. Id. Goldberg later pleaded guilty to attempted criminal possession of a controlled substance in the third degree and received an incarceratory sentence of 30 days. Id. In May 2009, Goldberg was again arrested by the NYPD and charged with possession of cocaine. PSR ¶ 25. That case was dismissed after Goldberg successfully completed a drug treatment program. Id. Goldberg ceased his involvement with the Service after this May 2009 arrest.

After Goldberg's November 2007 arrest, Tolento told Goldberg that he had accumulated a several thousand dollar debt to Tolento because Tolento had lost out on drug sales while Goldberg had been incarcerated. PSR ¶ 8. Tolento demanded that Goldberg continue to work for the Service to pay off that debt. Id. Goldberg feared that Tolento would harm him if he did not work for the Service. This fear also stemmed from the fact that Goldberg understood that Tolento was involved with the mafia and he had witnessed Tolento and others engage in acts of violence.

On October 5, 2010, Goldberg was arrested by the FBI for conspiring to distribute cocaine in violation of Title 21, United States Code, Section 846. PSR ¶ 9. On November 29, 2010, the defendant pleaded guilty before Your Honor, to an information pursuant to a cooperation agreement, to conspiracy to distribute cocaine in violation of Title 21, United States Code, Section 846. PSR ¶ 1. As set forth in the PSR, the advisory Guidelines range applicable to Goldberg is 70 to 87 months. Amended PSR ¶ 58.

II. Goldberg's Cooperation

From the moment of his arrest by the FBI in 2010, Goldberg acknowledged his involvement in criminal activity and agreed to assist the government's prosecution of others, despite fear of reprisal from Tolento and others in the Cocaine Delivery Service. Goldberg met with the government numerous times and was always responsive whenever the government had questions for him. Goldberg made no excuses about his criminal past nor did he minimize it. Goldberg provided information during his meetings with the government that has been corroborated by several other sources of information.

In addition, Goldberg was forthcoming about his involvement in other criminal activities for which the government was previously unaware. Goldberg informed the government that he assisted Tolento in bookmaking. In particular, on six or seven occasions during the 2008 football season, Goldberg picked up and dropped off cash to an unidentified male. He also admitted to purchasing and selling prescription medication to make extra money while working for Tolento. Goldberg has an extensive drug history and has ingested cocaine, ecstasy, LSD, mushrooms and marijuana. In addition, he has taken Percocet, Xanax, Suboxone, Klonopin and Ambien without a prescription. While in high school, Goldberg sold marijuana and was arrested for possession. That arrest does not appear on his rap sheet. Moreover, he admitted to downloading pirated movies and music and prior to his arrest in the instant case he had never filed state or federal income tax returns.

III. Results of Goldberg's Cooperation

On or about June 30, 2011, Robert Tolento pleaded guilty to a three-count information charging him with racketeering conspiracy in violation of 18 U.S.C. 1962(d); using carrying and possessing a firearm in furtherance of a crime of violence in violation of 18 U.S.C. 924(c); and conspiracy to distribute cocaine in violation fo 21 U.S.C. 846. He has not yet been sentenced. On or about March 16, 2012, Anthony Ciliento pleaded guilty to conspiracy to distribute cocaine, in violation of 21 U.S.C. § 846. Judge Cogan sentenced Ciliento to a term of imprisonment of 27 months. Goldberg also provided helpful information about John Avvento, a retired NYPD officer, and Avvento's relationship with Tolento and others working for the Service. On or about September 28, 2011, John Avvento pleaded guilty to conspiracy to distribute cocaine in violation of 18 U.S.C. § 846. Judge Johnson sentenced Avvento to five years' probation.

IV. Conclusion

As set forth above, German Goldberg has provided substantial assistance to the government. Accordingly, the government respectfully moves pursuant to Section 5K1.1 of the United States Sentencing Guidelines to permit the Court, in its discretion, to depart downwards from the advisory Guidelines range when sentencing Goldberg.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

By: _____ /s
Marisa Megur Seifan
Assistant U.S. Attorney
(718) 254-6008

cc: Eric Creizman, Esq.